

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 May 2025

DOCKET NUMBER: AR20240009417

APPLICANT REQUESTS: upgrade his under other than honorable conditions to (general) under honorable conditions.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Honorable Discharge Certificate dated 5 April 1982
- 2- Certificate of Recognition of Contribution Performance from Social Security Administration Cash Awards \$ 800.00 on 25 August 2022 and \$681.00 pm 26 August 2022
- Social Security Award Letter, 25 May 23 shows the applicant was awarded the Commissioner's Citation, the Social Security Administration's highest honor award. The award recognizes the applicant's exceptional contribution toward Social Security Administration's critical mission. (available for the Board's review)
- Social Security Administration Commissioner's Citation Certificate dated May 23
- Social Security Administration Certificate of Appreciation for facilitating customer service representative course.
- Form SSA-45-BK (04-2012) Experience and Qualification Statement for Position Vacancy shows the applicant's employment experience, detail and developmental assignments, training and self-development, awards and highest grade held.
- Standard Form 50 (Notification of Personnel Action), 31 December 2023 shows the promotion to the next grade. (available for the Board's review)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states he is requesting his discharge to be upgrade to under honorable conditions (general). During a period of his service, he had undiagnosed mental health issues which led to his actions that caused his separation from service. As a coping mechanism he became addicted to alcohol/substance use. He believes his first onset was during the time he was deployed to Honduras. It seemed like once we returned, he became very depressed and being so young he did not realize he was suffering from an undiagnosed mental impairment. The delay has been due to his situation of living on the streets after discharge and being homeless. It was not until 1993 that he became aware of what was going on with his mental health and at that time he did enter a treatment for his issues. He is currently a productive member of society.

3. A review of the applicant's service records shows:

- a. He enlisted in the Regular Army on 18 September 1979.
- b. He accepted nonjudicial punishment for the following:
 - On 10 November 1983: willfully failure to obey a lawful order and failure to go to the prescribe place at an appointed time
 - On 30 May 1984: absent without authority (AWOL), and willfully failed to use the chain of command before leaving a field training site
 - On 26 September 1984: willfully failure to obey a lawful order
- c. DD Form 458 (Charge Sheet) shows court martial charges were preferred on 27 December 1984, for two specifications of absent without leave (AWOL)
- d. The available service record is void documentation for his request for discharge in lieu of trial by court-martial under the provisions (UP) of Chapter 10, AR 635-200.
- e. Accordingly, he was discharged with an under other than honorable conditions on 29 January 1985, he completed 5 years, 2 months, and 20 days net active service this period. It also shows he was awarded or authorized:
 - Army Good Conduct Medal
 - Expert Badge M-16
 - Expert Badge Hand Grenade
 - Expert M2 50 Cal
- f. The applicant annotated other mental health as an issue related to his request. The available service record is void documentation regarding the claim.

4. On 13 April 1987, the applicant was notified the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied his request for an upgrade of his discharge.

5. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under other than honorable conditions discharge. He reported that mental health conditions including depressive symptoms and substance abuse were related to his request. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) The applicant enlisted in the Regular Army on 18 September 1979; 2) He received NJP including: A) On 10 November 1983 for failure to obey a lawful order and failure to go to the place prescribed, B) on 30 May 1984 for going AWOL and failing to use the chain of command, and C) on 26 September 1984 for failing to obey a lawful order; 3) On 27 December 1984 court martial charges were preferred against the applicant for two specifications of AWOL; 4) The applicant was discharged on 29 January 1985, AR 635-200-Chapter 10- For the good of the service-in lieu of court martial. He completed 5 years, 2 months, and 20 days of net active service. His service was characterized as under other than honorable conditions; 5) On 13 April 1987, the applicant was notified the ADRB reviewed the applicant's discharge processing but found it proper and equitable.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the applicant's available military service records. The VA's Joint Legacy Viewer (JLV) was also examined. No additional medical documentation was provided for review.

c. The applicant reported that mental health conditions including symptoms of depression and substance abuse/use were related to his request. There was insufficient evidence the applicant reported or was diagnosed with a mental health condition during his military service.

d. A review of the VA's Joint Legacy Viewer (JLV) did not provide any results. There is insufficient evidence the applicant has been diagnosed with any service-connected mental health condition or receives any VA service-connected disability payments.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence the applicant was experiencing a mental health condition or experience during his active service, which mitigates his misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced mental health conditions, which mitigate his misconduct.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions while on active service, which mitigates his misconduct.

(3) Does the condition or experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant experiencing a mental health condition at the time of his active service which mitigates his misconduct. The applicant did engage in avoidant and erratic behavior such as failing to follow orders, substance abuse, and going AWOL, which could be natural sequelae to certain mental health conditions. However, the presence of misconduct is not sufficient evidence of the presence of a mental health condition. The applicant's contention is sufficient for consideration per the Liberal Consideration Policy.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was warranted. Based upon the lengthy period of honorable service completed prior to any misconduct and the misconduct leading to the applicant's separation, the Board concluded there was sufficient evidence to grant clemency by upgrading the applicant's characterization of service to General, Under Honorable Conditions.

2. Prior to closing the case, the Board noted the applicant completed a period of honorable service which is not currently annotated on his DD Form 214. For that reason, the Board recommended adding in block 18 (Remarks), "Continuous Honorable Service from 790918 to 820405."

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:XXX	:XXX	:XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing:

- Characterization of Service: Under Honorable Conditions (General)
- Separation Authority: No change
- Separation Code: No change
- Reentry Code: No change
- Narrative Reason for Separation: No change

2. Prior to closing the case, the Board noted the applicant completed a period of honorable service which is not currently annotated on his DD Form 214. For that reason, the Board recommended adding in block 18 (Remarks), "Continuous Honorable Service from 790918 to 820405."

//SIGNED//

X

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 635-5 (Separation Documents) states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Honorable Discharge states an honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the member's service generally has met, the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. General Discharge states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

4. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NRs) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief based on equity, injustice, or clemency grounds,

BCM/NRs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

5. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised post-traumatic stress disorder (PTSD) criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

6. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD, traumatic brain injury, sexual assault, or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based, in whole or in part, on those conditions or experiences. The guidance further describes evidence sources and criteria and requires boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

7. Section 1556 of Title 10, United States Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product.

//NOTHING FOLLOWS//